

The Older Americans Act: Programs, Funding, and 2006 Reauthorization (P.L. 109-365)

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Summary

The Older Americans Act (OAA) is the major vehicle for the delivery of social and nutrition services for older persons. Originally enacted in 1965, the act supports a wide range of social services and programs for older persons. Authorization of appropriations expired at the end of FY2005. The Older Americans Act Amendments of 2006 (P.L. 109-365) reauthorized all programs under the act through FY2011.

The major program under the act, Title III—Grants for State and Community Programs on Aging—authorizes grants to 56 state and 655 area agencies on aging to act as advocates on behalf of, and to coordinate programs for, older persons. Title III accounted for 70% of the act's total FY2006 appropriations (\$1.24 billion out of \$1.78 billion). States receive separate allotments of funds for supportive services and centers, family caregiver support, congregate and home-delivered nutrition services, the nutrition services incentive grant program, and disease prevention and health promotion services. Title V—Community Service Senior Opportunities Act—is the only federally subsidized employment program for low-income older persons. It represented almost one-quarter of the act's total funding in FY2006 (\$432.3 million).

P.L. 109-365 added requirements that state and area agencies on aging focus programs and services on specific groups of older people, including those at risk for institutional care and those with limited English proficiency. The law also added requirements that the Administration on Aging (AoA) and state and area agencies focus efforts on the promotion of home and community-based long-term care services for older people to prevent or delay the need for institutional care. The law also revised the formula for distribution of Title III grants to require that states receive at least as much as they received in FY2006 (a 2006 “hold harmless” level), and to gradually eliminate a “guaranteed growth” provision.

The new law added responsibility for AoA to develop and implement systems for elder justice and to conduct an elder abuse national incidence study. It also added authority for competitive grants to states for elder justice activities under Title VII. In addition, the law authorized the Assistant Secretary on Aging to conduct several new research and demonstration programs, including model projects to assist older people “age in place”(including in Naturally Occurring Retirement Communities, or NORCs); and to develop systems for mental health screening and treatment for older people. P.L. 109-365 maintained the Title V program focus on employing older people in community service jobs, but it also revised the program to place more emphasis on training eligible older individuals. The new law required the Secretary of Labor to conduct a national competition for Title V funds every four years.

For FY2006, the act's programs received \$1.78 billion, a 2% decrease from the FY2005 level.

Figure 1 shows the distribution of FY2006 funding by program. **Table 3** shows the appropriations history for OAA programs for FY1999-FY2006. For appropriations amounts for FY1966-FY2004, see CRS Report RL32437, *Older Americans Act: History of Appropriations, FY1966-FY2004*, by Carol O'Shaughnessy. For FY2007 appropriations and the FY2008 budget request, see CRS Report RL33880, *Older Americans Act (OAA) Funding*, by Angela Napili. This report will not be updated.

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Introduction

The Older Americans Act (OAA) is the major vehicle for the delivery of social and nutrition services for older persons. Originally enacted in 1965, the act supports a wide range of social services and programs for older persons. These include supportive services, congregate and home-delivered nutrition services, community service employment, the long-term care ombudsman program, and services to prevent the abuse, neglect, and exploitation of older persons. The act also supports grants to Native Americans and research, training, and demonstration activities.

P.L. 109-365 (H.R. 6197), the Older Americans Act Amendments of 2006, was signed by the President on October 17, 2006.¹ P.L. 109-365 reauthorized all programs under the act through FY2011. H.R. 5293, the Senior Independence Act of 2006, was reported by the House Committee on Education and the Workforce² and passed by the House on June 21, 2006. S. 3570, the Older Americans Act Amendments of 2006, was reported by the Senate Committee on Health, Education, Labor, and Pensions on September 19, 2006. (For a side-by-side comparison of H.R. 5293 and S. 3570, see CRS Report RL33660, *Older Americans Act Reauthorization: Side-by-Side Comparison of Current Law, H.R. 5293, and S. 3570*.) H.R. 6197, the House and Senate compromise bill, was passed by the House on September 28, 2006, and by the Senate on September 30, 2006.

This report provides a brief summary of changes to the act made by P.L. 109-365; background on all titles of the act, followed by a discussion of selected major provisions made in each title by P.L. 109-365; and a discussion of recent funding for the act's programs. **Table 2** shows the authorization of appropriations contained in P.L. 109-365 for each program under the act. **Table 3** shows the appropriations history for the act's programs for FY1999-FY2006. Appropriations amounts for previous years are available in CRS Report RL32437, *Older Americans Act: History of Appropriations, FY1966-FY2004*, by Carol O'Shaughnessy. For information on FY2007 appropriations, see CRS Report RL33880, *Older Americans Act (OAA) Funding*, by Angela Napili. The **Appendix** at the end of the report summarizes major amendments to the act beginning in 1967.

P.L. 109-365 in Brief

P.L. 109-365 focused attention on a number of specific groups of older people. The OAA previously required state and area agencies on aging to target services and programs on specific groups of older people, including those with the greatest social or economic need, especially low-income older people and those residing in rural areas. P.L. 109-365 added requirements that state and area agencies, and Title III aging service providers, focus services and programs toward additional groups, including older people at risk for institutional care, and older people with limited English proficiency. The law added several new provisions to focus attention on older people with mental illness, including authorizing the Assistant Secretary on Aging to designate an individual in AoA to be responsible for mental health services authorized by the act.

P.L. 109-365 included several provisions related to elder justice activities. Elder justice is defined in the law as efforts to prevent, detect, treat, intervene in, and respond to elder abuse, neglect, and exploitation and to protect elders with diminished capacity while maximizing their autonomy. The

¹ Authorization of appropriations had expired at the end of FY2005.

² Committee on Education and the Workforce, U.S. House of Representatives, H.Rept. 109-493, *Senior Independence Act of 2006*, 109th Cong., 2nd sess., June 8, 2006.

law authorized the Assistant Secretary to designate within AoA an individual responsible for administering activities related to elder abuse prevention programs, and required a national study on the incidence and prevalence of elder abuse, neglect and exploitation in all settings where older people live. In addition, the law added a requirement that the Assistant Secretary award funds for competitive grants to states for development and implementation of elder justice activities.

P.L. 109-365 expanded the role of AoA and state and area agencies on aging in promoting home and community-based long-term care services to help older people avoid institutionalization. The Assistant Secretary is required to, among other things, conduct research and demonstration projects to identify innovative, cost-effective strategies for modifying state systems of long-term care. The law also required state and area agencies on aging to develop and implement comprehensive, coordinated systems, at their respective levels, for home and community-based services.

Recognizing that growing numbers of people turning age 65 in the coming decades will place increasing burdens on aging service providers supported by the act, P.L. 109-365 authorized state and area agencies to include in their respective plans on aging an assessment of how prepared the state and local communities are for demographic and other changes in the elderly population.

P.L. 109-365 revised the formula for distribution of Title III grant allotments to states for supportive services, congregate and home-delivered nutrition services, and disease prevention and health promotion services. It did so by requiring that states receive, for these service programs, at least the same amount they received in FY2006, and by gradually phasing out a “guaranteed growth” factor over a four-year period.

The law added requirements that the Assistant Secretary conduct several new demonstration programs under Title IV. Among these are demonstration model projects to help older people “age in place,” including in Naturally Occurring Retirement Communities (NORCs); and to develop systems for the delivery of mental health screening and treatment services for older people who lack access to such services.

P.L. 109-365 revised the Title V community service employment program to place more emphasis on training eligible older individuals; however, it maintained the program focus on employing older people in community service jobs. The law clarified the definition of income when determining an individual’s eligibility, placed a time limit on enrollee participation, and placed more emphasis on transitioning participants to unsubsidized employment. The law also required the Secretary of Labor to conduct a national competition for Title V funds every four years.

Older Americans Act Programs and 109th Congress Legislation

The following provides a brief description of the act’s titles and highlights *selected* amendments made by P.L. 109-365 in each title.

Title I. Declaration of Objectives

Title I of the act sets out broad social policy objectives oriented toward improving the lives of all older Americans, including adequate income in retirement, the best possible physical and mental health, opportunity for employment, and comprehensive long-term care services, among other things.

P.L. 109-365 Amendments to Title I

P.L. 109-365 added definitions for various terms used in the act.³

Title II. Administration on Aging

Title II establishes AoA within the Department of Health and Human Services (HHS) as the chief federal agency advocate for older persons and sets out the responsibilities of AoA and the Assistant Secretary for Aging. The Assistant Secretary is appointed by the President with the advice and consent of the Senate. Among other things, Title II requires AoA to establish the National Eldercare Locator Service to provide nationwide information through a toll-free telephone number to identify community resources for older persons. It also requires AoA to establish the National Long-Term Care Ombudsman Resource Center, the National Center on Elder Abuse, the National Aging Information Center, and the Pension Counseling and Information Program.

P.L. 109-365 Amendments to Title II

Elder Justice Activities

As average lifespans continue to rise,⁴ increasing the likelihood of age-related disability, older people who rely on family, friends, or professionals for care could become vulnerable to abuse, neglect, and exploitation. In response to these demographic trends, recent Congresses have considered legislation that would support a coordinated federal effort to address abuse, neglect, and exploitation of the elderly.⁵ A number of bills have taken a multidisciplinary approach that would involve law enforcement, public health, and social services personnel to address these issues.

In addition to these proposals, Congress included several provisions related to elder justice activities in the OAA reauthorization legislation. P.L. 109-365 defines elder justice as efforts “to prevent, detect, treat, intervene in, and respond to elder abuse, neglect, and exploitation and to protect elders with diminished capacity while maximizing their autonomy.”⁶ The law added various elder justice activities to be carried out by the Assistant Secretary. (The law also authorized a new grant program as part of Title VII of the act, discussed below.) These include authorizing the Assistant Secretary to designate within AoA an individual responsible for administering activities related to elder abuse prevention programs. Among this person’s responsibilities are “to develop objectives, priorities, policy and a long-term plan for facilitating the development, implementation, and improvement of a coordinated, multidisciplinary elder

³ Definitions for the following terms were added or amended: assistive device, technology, technology service; evidence-based health promotion programs; exploitation; information and assistance; long-term care facility; neglect; Aging and Disability Resource Center; at risk for institutional placement; civic engagement; elder justice; fiduciary; Hispanic-serving institution; long-term care; self-directed care; self-neglect; state system of long-term care and integrated long-term care.

⁴ See CRS Report RL32792, *Life Expectancy in the United States*, by Laura B. Shrestha.

⁵ The Elder Justice Act of 2002 (S. 2933) was first introduced in the 107th Congress. A similar measure (S. 333) was introduced in the 108th Congress; the bill was approved by the Senate Finance Committee but never taken up on the Senate floor. On November 15, 2005, S. 2010, the Elder Justice Act, was introduced; the bill was ordered reported by the Senate Finance Committee on August 3, 2006. Other proposals have been introduced in the House, H.R. 4993, in the 109th Congress, and H.R. 2490, in the 108th Congress.

⁶ P.L. 109-365, Section 101.

justice system.” In addition, the law requires the conduct of a national incidence and prevalence study of elder abuse, neglect and exploitation in all settings where older persons live.

Promotion of Home and Community-based Long-term Care Services

In recent years, Congress and the Administration have devoted expanded resources to the development of home and community-based long-term care services. AoA and the Centers for Medicare and Medicaid Services (CMS) have awarded funds to states to expand these services as one means to prevent older people with chronic illnesses or impairments from unnecessarily entering an institution and to respond to their desire to receive needed assistance in their own homes.⁷ These initiatives have been in partial response to the Supreme Court’s decision in *Olmstead v. L.C.*, which held that unjustified isolation of persons with disabilities in institutions is regarded as discriminatory under specified circumstances.⁸

In light of these developments, Congress in P.L. 109-365 explicitly expanded AoA’s role in promoting home and community-based long-term care services. In doing so, the Assistant Secretary is required to, among other things, conduct research and demonstration projects to identify innovative, cost-effective strategies for modifying state systems of long-term care; and target services to individuals at risk for institutional placement in order to permit them to remain in home and community-based care settings.

In addition, the Assistant Secretary is to implement in all states Aging and Disability Resource Centers (ADRCs) “to serve as visible and trusted sources of information on the full range of long-term care options,” and “to provide personalized and consumer-friendly assistance to empower individuals to make informed decisions about their care options.” In recent years, AoA has used its Title IV research and demonstration authority to help fund ADRCs in 43 states. The ADRC grant program is a cooperative effort between AoA and CMS and was developed to help states enhance individuals’ choice of services, support informed decision-making, and create a single, coordinated system of information and access for all persons seeking help in accessing long-term care services. P.L. 109-365 allows AoA to continue and expand this initiative.

Mental Health Services

The law authorized the Assistant Secretary to designate an officer or employee to be responsible for administering mental health services authorized under the act. The officer is to “develop objectives, priorities and a long-term plan to support state and local efforts regarding education about and prevention, detection and treatment of mental disorders.” This includes age-related dementia, depression, and Alzheimer’s disease and related neurological disorders.

⁷ These initiatives have included, for example, grants for Real Choice Systems Change, Money Follows the Person, and Aging and Disability Resource Centers, among others. See http://www.cms.hhs.gov/NewFreedomInitiative/02_WhatsNew.asp# and <http://www.cms.hhs.gov/NewFreedomInitiative>.

⁸ The Court ruled that “unjustified isolation...is properly regarded as discrimination based on disability.” It also noted several limitations: a state treatment professional must determine the appropriateness of the environment; community placement is not opposed by the individual with a disability; and the placement can be easily accommodated. While the case dealt specifically with the rights of certain people with mental disabilities, subsequent Health Care Financing Administration (now the Centers for Medicare and Medicaid Services) guidance stated that the case was applicable to all people with disabilities. See CRS Report RS20588, *Olmstead v. L.C.: Implications and Subsequent Judicial, Administrative, and Legislative Actions*, by Melinda DeAtley and Nancy Lee Jones. Available at <http://www.congress.gov/erp/rs/pdf/RS20588.pdf>.

National Center on Senior Benefits Outreach and Enrollment

Research has shown that many older people do not participate in federal and state programs for which they may be eligible, such as food stamps⁹ and supplemental security income.¹⁰ Recognizing the difficulties in enrolling eligible older people, Congress in P.L. 109-365 authorized the Assistant Secretary to establish a new National Center on Senior Benefits Outreach and Enrollment, whose purpose is to maintain and update web-based decision support and enrollment tools as well as other systems to inform older people about federal and state benefit programs. Among other tasks, the Center is also to develop and maintain an information clearinghouse on best practices and cost-effective methods to find and enroll older people who have the greatest economic need for program participation.

Private Pay Agreements with Profitmaking Organizations

Under prior law, area agencies on aging or tribal organizations, could enter into agreements with private profitmaking organizations to provide services to older people. Since area agencies staff have expertise on a wide range of issues that affect all older people in their planning and service areas, they are frequently called upon by many organizations to provide information and services to many organizations, including profitmaking organizations. For example, there have been instances where area agencies on aging have entered into agreements with profitmaking organizations to conduct activities to benefit employees of these organizations, such as conducting seminars on caregiving issues employees faced with caregiving responsibilities in their own families.

The Administration proposed clarification and expansion of these provisions by specifying the circumstances under which such agreements could take place and specifically that area agencies and other grantees under the act could be reimbursed by the private profitmaking sector for carrying out these services. The House Education and Workforce and the Senate HELP Committees generally agreed with the proposal, but added stipulations that these agreements could take place only if certain safeguards, including provisions regarding reimbursement of costs incurred by area agencies of providing services to the private sector, were added to the provision. In addition, other provisions regarding AoA's responsibilities for reporting to Congress on the implementation of this new provision were added.

Under the provision in P.L. 109-365, state and area agency on aging or tribal organization may enter into agreements with profitmaking organizations to provide services to older people, if (1) all costs of providing the services, including administrative costs, will be reimbursed to the agency or tribal organization; (2) the organization reimburses the agency or tribal organization for the cost incurred at the fair market rate; and (3) the reimbursement rates are consistent with the prevailing market rate in the geographic area where the services are provided. Any revenue generated through these agreements must be used to provide or support services to older people that are consistent with the act. The law further stipulated that activities to be carried out under these agreements may not result in the displacement of services otherwise available to older individual with greatest social need, greatest economic need, or an older individual at risk for institutional placement. In addition, the activities may not in any other way compromise, undermine, or be inconsistent with the objective of serving the needs of older people.

⁹ See, for example, *Food Stamp Participation by Eligible Older Americans Remains Low*, *FoodReview*, by Parke Wilde and Elizabeth Dagata, Economic Research Service, U.S. Department of Agriculture, *FoodReview*. Summer-Fall 2002.

¹⁰ See, for example, *The Incredible Shrinking Program: Trends in SSI Participation of the Aged*, by Todd E. Elder and Elizabeth T. Powers. *Research on Aging*, Vol. 28, No. 3, pp. 341-358, May 2006.

In addition, the Assistant Secretary is required to develop and implement monitoring procedures and reporting requirements for these agreements. Reporting requirements are to include information on the number of agreements with profitmaking organizations in each state; summaries of all agreements made; the types of organizations participating and services provided; the net proceeds gained under the agreements; and documentation of funds spent and reimbursed under the agreements.

Title III. Grants for State and Community Programs on Aging

Title III authorizes grants to state and area agencies on aging to act as advocates on behalf of, and to coordinate programs for, older persons. It accounted for 70% of total OAA funds in FY2006 (\$1.24 billion out of \$1.78 billion). The program, which supports 56 state agencies on aging, 655 area agencies on aging, and more than 29,000 service providers, authorizes six separate service programs. States receive separate allotments of funds for supportive services and centers, family caregiver support, congregate nutrition services, home-delivered nutrition services, nutrition services incentive grants, and disease prevention and health promotion services.

Title III services are available to all persons aged 60 and over, but are targeted to those with the greatest economic or social need, particularly low-income and minority persons and older persons residing in rural areas. Means testing is prohibited. Participants are encouraged to make voluntary contributions for services they receive. States are allowed to implement cost-sharing policies for certain services on a sliding fee scale basis, but older persons must not be denied services due to failure to make cost-sharing payments.

AoA allots funds for supportive services, congregate and home-delivered nutrition services, and disease prevention and health promotion services to states based on each state's relative share of the total population aged 60 years and over. Funds for nutrition services incentive grants are allotted to states based on a formula that takes into account the number of meals served by each state's nutrition program the prior year. Funds for the family caregiver program are allotted to states based on each state's relative share of the total population aged 70 years and over (although persons under age 70 are eligible to receive caregiver services).

In FY2004, Title III programs served 8.1 million older persons, who received a range of services including transportation, home care, adult day care, information and assistance, and legal assistance. Of all persons served, 28% had income below the poverty level, and 22% were minority older persons.¹¹

Supportive Services and Centers

The supportive services and senior centers program provides funds to states for a wide array of social services, as well as the activities of more than 6,000 senior centers.¹² Funded at \$350.4 million in FY2006, it represents 28% of Title III funds (\$1.24 billion). Supportive services allow older persons to reside in their homes and communities and remain as independent as possible. In FY2004, the program provided more than 36 million rides to a variety of community services, such as doctors' offices, grocery stores, and senior centers; more than 20 million hours of

¹¹ Administration on Aging, *The Aging Network: 2004 State Program Reports*, at <http://www.aoa.gov/prof/agingnet/NAPIS/SPR/2004SPR/tables/2004tables.asp>.

¹² Administration on Aging, *The Aging Network: 2004 State Program Reports: Table 10. Focal Points and Senior Centers*. At <http://www.aoa.gov/prof/agingnet/NAPIS/SPR/2004SPR/tables/2004tables.asp>, visited Dec. 7, 2006.

personal care, homemaker, and chore services; and more than 8 million hours of services in adult day care.¹³

An AoA 2004 survey of Title III service recipients found that services are targeted on particularly vulnerable populations. For example, four-fifths of transportation services recipients said they either could not drive or had no vehicle available; and two-thirds reported that they rely on OAA transportation services for at least half of their local transportation needs. Over two-thirds of these recipients reported living alone, and almost three-quarters were age 75 or older.¹⁴

Over 75% of homemaker services recipients reported needing assistance with one or more Instrumental Activities of Daily Living (IADLs, such as preparing meals and doing light or heavy housework) and 43% reported needing assistance with one or more Activities of Daily Living (ADLs include bathing, dressing, toileting, transferring from a bed or a chair, eating, and getting around inside the home). Almost three-quarters of homemaker services recipients reported living alone, and 69% were aged 75 or older; 55% of recipients reported income of \$10,000 or less.¹⁵

Nutrition Services

The Title III nutrition program, funded at \$714.6 million in FY2006, represents 58% of Title III funds, and 40% of the act's total funding. Data for FY2004 (latest available) show that of the 249 million meals served, 57% were provided to frail older persons (and their caregivers) at home, and 43% were provided in congregate settings, such as senior centers and schools.¹⁶

Persons who are age 60 or older, and their spouses of any age, may participate in the nutrition program. The law also allows the following groups to receive meals: persons under age 60 with disabilities who reside in housing facilities occupied primarily by the elderly where congregate meals are served; persons with disabilities who reside at home with, and accompany, older individuals; and volunteers who provide services during the meal hours.

Meals provided must comply with the Dietary Guidelines for Americans published by the Secretary of HHS and the Secretary of Agriculture. Projects must provide meals that meet certain dietary requirements based on the number of meals served by the project each day. That is, projects that serve one meal per day must provide to each participant a minimum of one-third of the daily recommended dietary reference intakes as established by the Food and Nutrition Board of the Institute of Medicine. Projects that serve two meals per day must provide a minimum of two-thirds of the dietary reference intakes, and projects that serve three meals per day must provide 100% of the dietary reference intakes.

Congregate and home-delivered¹⁷ nutrition services providers are required to offer older persons at least one meal per day five or more days per week. The law provides an exception in rural areas if the five-day weekly frequency is not feasible and a lesser frequency has been approved by the state agency on aging. Congregate nutrition providers are required to provide at least one "hot

¹³ U.S. Department of Health and Human Services, *Fiscal Year 2007: Administration on Aging: Justification of Estimates for Appropriations Committees*, pp. 28-29.

¹⁴ Administration on Aging, *Highlights from the Pilot Study: Second National Survey of Older Americans Act Title III Service Recipients*. At <http://aoa.gov/about/results/Final-Highlights-2nd-national-survey.pdf> [sic].

¹⁵ Ibid. Administration on Aging, *Highlights from the Pilot Study: Second National Survey of Older Americans Act Title III Service Recipients*.

¹⁶ U.S. Department of Health and Human Services, *Fiscal Year 2007: Administration on Aging: Justification of Estimates for Appropriations Committees*, pp. 28-29.

¹⁷ Title III home-delivered nutrition services are sometimes informally referred to as "Meals on Wheels." We avoid this phrase to prevent confusion. Some organizations funded under Title III do not have "Meals on Wheels" in their names, and some organizations with "Meals on Wheels" in their names do not receive Title III funds.

or other appropriate meal” per day; home-delivered nutrition providers are to provide at least “one hot, cold, frozen, dried, canned, fresh, or supplemental foods” meal per day.

The last major national evaluation of the nutrition program was completed in 1996. It showed that, compared to the total elderly population, nutrition program participants were older and more likely to be poor, to live alone, and to be members of minority groups. Almost half of home-delivered meal recipients and more than one-third of congregate meal recipients had income below the federal poverty level, compared to about 15% of the total U.S. population aged 60 and over (at the time of the evaluation). Recipients were also more likely to have health and functional limitations that place them at nutritional risk. The report found the program plays an important role in participants’ overall nutrition and that meals consumed by participants are their primary source of daily nutrients. The evaluation also found that the program leverages a fairly significant amount of non-federal dollars: for every federal dollar spent, the program leveraged (at that time) on average \$1.70 for congregate meals, and \$3.35 for home-delivered meals from a variety of sources, including state, local, and private funds as well as participant contributions toward the cost of meals.¹⁸ (The law requires a 15% nonfederal match.)

More recent AoA survey data showed recipient characteristics similar to the 1996 national evaluation. In 2004, 62% of congregate nutrition survey respondents were age 75 and older; 52% lived alone. Over one-quarter had annual income of \$10,000 or less; 56% reported that the congregate meals program provided one-half or more of their daily food intake. Furthermore, many congregate nutrition recipients said they participated in other activities at the meal site: 52% said they took part in physical fitness activities when available; 59% used health screening services at the nutrition sites; and 57% said that their social activities increased since they started receiving congregate meals.¹⁹

This 2004 survey found that almost three-quarters of home-delivered respondents were age 75 and over; 61% lived alone; 46% had annual income of \$10,000 or less; 66% said that the home-delivered meals program provided at least half their daily food intake. According to the AoA survey, home-delivered meals recipients are particularly impaired and are at risk for institutionalization. Almost 40% of recipients reported needing assistance with one or more ADLs compared with only 6% in the total U.S. population aged 60 and over. Almost 30% needed assistance with three or more ADLs. In addition, 69% reported needing assistance with one or more IADLs.²⁰

AoA data show that for FY2004, the U.S. average cost of congregate meals was \$5.81, ranging from \$14.70 in Alaska to \$1.60 in Puerto Rico. The average cost of home-delivered meals was \$4.68, ranging from \$11.28 in Minnesota to \$1.32 in Puerto Rico.²¹

¹⁸ U.S. Department of Health and Human Services, Office of the Assistant Secretary for Aging, *Serving Elders at Risk: The Older Americans Act Nutrition Programs*, National Evaluation of the Elderly Nutrition Program, 1993-1995, June 1996. Available at http://www.aoa.dhhs.gov/prof/aoaprogram/nutrition/program_eval/eval_report.asp.

¹⁹ Administration on Aging, *Highlights from the Pilot Study: Second National Survey of Older Americans Act Title III Service Recipients* (Additional Information site), at [http://aoa.gov/about/results/Final-Highlights-2nd-national-survey.pdf\[sic\]](http://aoa.gov/about/results/Final-Highlights-2nd-national-survey.pdf[sic]).

²⁰ Ibid., Administration on Aging, *Highlights from the Pilot Study: Second National Survey of Older Americans Act Title III Service Recipients*. The survey cites the Survey of Income and Program Participation for its IADL figures on the U.S. population over age 60.

²¹ Administration on Aging. Unpublished data via personal communication. October 24, 2006.

National Family Caregiver Support Program

The National Family Caregiver Support Program (NFCSP) was added to Title III by the 2000 amendments (P.L. 106-501). Funded at \$156.1 million in FY2006, it represents 13% of Title III funds and 8.8% of the act's total funding. The legislation authorizes the following services: information and assistance to caregivers about available services; individual counseling; organization of support groups and caregiver training; respite services to provide families temporary relief from caregiving responsibilities; and supplemental services (such as adult day care or home care services, for example), on a limited basis, that would complement care provided by family and other informal caregivers.

Caregivers may receive information and assistance, and individual counseling, access to support groups, and training. Services that tend to be more individualized, such as respite, home care, and adult day care, are to be directed to persons who have specific care needs. These are defined in the law as persons who are unable to perform at least two ADLs without substantial human assistance, including verbal reminding, or supervision; or due to a cognitive or other mental impairment, require substantial supervision because of behavior that poses a serious health or safety hazard to the individual or other individuals. In FY2004, almost half of caregiver funding was spent on respite services, with the remainder spent on caregiver information and assistance services.²² The law allows states to establish cost-sharing policies for individuals who receive respite and supplemental services provided under the program.

Priority is to be given to older persons and their families who have the greatest social and economic need, with particular attention to low-income individuals, and to older persons. In addition, under certain circumstances, grandparents and certain other caregivers of children may receive services.

The federal matching share for caregiver services is 75%, with the remainder to be paid by states. This is a lower federal matching rate than is applied to other Title III services (such as congregate and home-delivered nutrition services, and other supportive services) where the federal matching rate is 85%.

According to AoA, in FY2004, states and territories conducted outreach efforts to provide information about caregiver programs to more than 9 million persons; provided access assistance to 525,000 caregivers; and conducted counseling and training services for over 322,000 caregivers. The program also supported respite care services for over 190,000 caregivers.²³ In a 2004 survey of NFCSP caregivers, over three-quarters said they had been providing care for three years or longer, and almost two-thirds were aged 60 and over themselves. Almost three-quarters of caregivers said that they helped with dressing and bathing; 91% said that they helped with preparing meals and laundry; and 83% said they helped with medicine and bandages. Over 77% of care recipients were age 75 and older (with over one-third age 85 or older).²⁴

²² Administration on Aging, "FY 2004 Title III-E - National Family Caregiver Support Program," <http://www.aoa.gov/about/results/III-E%202004.xls>, visited Dec. 7, 2006.

²³ U.S. Department of Health and Human Services, *Fiscal Year 2007: Administration on Aging: Justification of Estimates for Appropriations Committees*, p. 29.

²⁴ Ibid., *Administration on Aging, Highlights from the Pilot Study: Second National Survey of Older Americans Act Title III Service Recipients*, at [http://aoa.gov/about/results/Final-Highlights-2nd-national-survey.pdf\[sic\]](http://aoa.gov/about/results/Final-Highlights-2nd-national-survey.pdf[sic]), visited Dec. 7, 2006.

P.L. 109-365 Amendments to Title III

Targeting Services to Specific Groups of Older People

Title III contains numerous requirements that state and area agencies on aging target services to older people who fall into various groups with special needs. Specifically, the law targets older people who are in greatest social and economic need, with particular attention on low-income minority older persons and those residing in rural areas. The law requires that states, in developing their intrastate funding formulas, take into account the distribution of people with those characteristics. It also requires that the agencies set specific objectives for serving low-income minority older persons and that program development, advocacy, and outreach efforts be focused on these groups. Service providers are required to meet specific objectives set by area agencies for providing services to low-income minority older persons, and area agencies are required to describe in their area plans how they have met these objectives.

P.L. 109-365 added a number of additional groups of older people to receive the attention of state and area agencies and Title III aging service providers. The law added requirements that states and area agencies target services and programs on older people at risk for institutional care and older people with limited English proficiency.

Home and Community-based Long-term Care Services

Title III supports a wide range of home and community-based long-term care services, including personal care, homemaker and chore services, home-delivered nutrition services, and assisted transportation. Beyond these Title III-funded services, many state and area agencies administer home and community-based long-term care services *not* funded by Title III. These include those funded by the Medicaid Section 1915(c) home and community-based services waiver program and the Social Services Block Grant program (Title XX of the Social Security Act). Many state and area agencies on aging are responsible for administering and managing case management and assessment of the long-term care needs of older persons; many have expanded and coordinated a variety of services to help older persons remain at home and avoid entry into institutions.

P.L. 109-365 defines the responsibilities of state and area agencies on aging with respect to home and community-based services, thus codifying what many are already doing. Specifically, the law requires state and area agencies on aging to develop and implement comprehensive, coordinated systems, at their respective levels, for home and community-based services. They would accomplish this by, among other things, collaborating, coordinating and consulting with other agencies responsible for formulating, implementing and administering long-term care programs; and making recommendations regarding strategies to modify the state's long-term care system in order to respond to the needs and preferences of older individuals and family caregivers.

State and Area Agency on Aging Planning for the Baby Boom Population

The increasing numbers of people turning age 65 in the coming decades will place increasing burdens on aging service providers supported by the Older Americans Act (the first wave of the baby boom population are turning age 60 in 2006 and will turn age 65 in 2011). Groups representing aging service providers, such as the National Association of State Units on Aging, and the National Association of Area Agencies on Aging, proposed new Older Americans Act initiatives to help state and area agencies plan and prepare for the growing elderly population across the nation. While state and area agencies are already responsible for assessing the needs of

the current older population in their states and areas, the baby boom population is expected to increase the need for resources as well as planning efforts.

P.L. 109-365 requires each state agency on aging, at the election of the state, to include in state plans on aging an assessment of how prepared the state is for changes in the elderly population over a 10-year period. The assessment may include:

- an analysis of how demographic changes may affect older individuals, including those with low incomes, those with greatest economic need, minority older individuals, those residing in rural areas, and those with limited English proficiency;
- an analysis of how the programs, policies, and services provided by states and area agencies can be improved, and how resource levels can be adjusted to meet the needs of the changing population of older individuals in the state; and
- an analysis of how the change in the number of persons age 85 years and older is expected to affect the need for supportive services.

The law also authorizes area agencies on aging to conduct similar activities and to make recommendations to government officials on actions to build their capacity to respond to the needs of the growing aging population, including health and human services, land use, housing, transportation, public safety, workforce and economic development, and emergency preparedness, among others.

Nutrition Services

Purpose of Nutrition Service Program and Sense of the Congress Regarding Malnourishment in Older People and Use of Multivitamin-Mineral Supplements

The law added a new purpose statement emphasizing the importance of both the nutritional and the socialization aspects of the program as well as its importance in promoting the health of older people. The purposes of the program as stipulated in the law are:

- to reduce hunger and food insecurity and promote socialization of older individuals; and
- to promote the health and well-being of older individuals by assisting them to access nutrition and other disease prevention and health promotion services to delay the onset of adverse health conditions resulting from poor nutritional health or sedentary behavior.

The law inserted several congressional findings noting malnourishment of older adults living in the community and in nursing homes, and the susceptibility of older adults to nutrition deficiencies. The law also noted that while diet is the preferred source of nutrition, evidence suggests that the use of a single daily multivitamin-mineral supplement may be an effective way to address poor nutrition among older people. Also, it noted that Title III nutrition service providers should consider whether congregate and home-delivered participants would benefit from a multivitamin-mineral supplement that is in compliance with government quality standards and that provides at least two-thirds of essential vitamins and minerals at 100% of daily value levels as determined by the Commissioner of Food and Drugs.

Nutrition Service Evaluation

P.L. 109-365 requires the Assistant Secretary to use funds set aside for evaluation under Title II to conduct an evidence-based evaluation of the nutrition program. The evaluation is to be conducted by the Food and Nutrition Board of the Institute of Medicine and is to include:

- an evaluation of the effect of nutrition projects on the health and nutrition status of participants, prevention of hunger and food insecurity, and ability of participants to remain living independently;
- a cost-benefit analysis of nutrition projects, including their potential to affect Medicaid costs; and
- recommendations on how nutrition projects may be modified to improve outcomes, and the nutritional quality of meals.

Additional Nutrition Services

The law adds new services designed to enhance the scope of the services currently available. It adds nutrition assessment and counseling as services that may be available to participants.

National Family Caregiver Support Program

Priority for Caregiver Services

P.L. 109-365, as in prior law, continues to require state agencies, in providing caregiver services, to give priority to caregivers who are older individuals (i.e., those age 60 and older) with greatest economic or social need, with particular attention to low-income older individuals. But the law also clarified that priority is to be given to older individuals who are providing care to individuals with severe disabilities (including children with severe disabilities).

In addition, when providing services to family caregivers of persons with Alzheimer's disease and related disorders with neurological and organic brain dysfunctions, P.L. 109-365 required the state to give priority to those caregivers providing assistance to persons age 60 and over with such diseases. Also, when providing services to grandparents or older relative caregivers of children, the state is required to give priority to those providing care to children with severe disabilities.

Grandparents and Older Relative Caregivers of Adopted Children

Grandparents or older relative caregivers who provide care to children may receive caregiver services under the program. Under prior law, children were defined as those who were related to the caregiver by blood or marriage. P.L. 109-365 clarified that caregivers of children who are adopted may receive services under the program.

Eligibility Age for Grandparents and Relative Caregivers

The law changed the age of eligibility for grandparents and older relative caregivers who are caring for children from age 60 to age 55. Under prior law, grandparents or other older individuals who are relative caregivers of children (under the age of 18) could receive caregiver support services only if they were age 60 and older.

Services for Adults Caring for Children with Disabilities

P.L. 109-365 clarified that caregiver services may be provided to older individuals who are caring for a child with disabilities *regardless of age of the child*. Under AoA guidance prior to passage of the law, parents of children with disabilities could receive caregiver services only if their children were age 18 or younger; parents of children with disabilities who were age 19-59 were not eligible for the act's caregiver services.

Emergency Preparedness

The devastation caused by Hurricanes Katrina and Rita had significant negative effects on older people, especially those with physical and mental disabilities, and those who were socially isolated and dependent upon informal caregivers and/or social service programs. Disaster-related environmental factors, such as dehydration and exposure to infectious diseases, seriously affect frail older people with chronic conditions.

In the event of a federally declared disaster, the Older Americans Act authorizes the Assistant Secretary of AoA to allocate funds to state agencies on aging and to tribal organizations receiving a Title VI grant to provide social services and related supplies for older persons in affected states.²⁵ Funding is allocated from Title III.²⁶ State agencies on aging pass these funds through to area agencies on aging. Title III funds are in addition to any funds that may be available to support older persons through the Federal Emergency Management Agency (FEMA).

State and area agencies have been instrumental in actions to assist older people in disaster-affected states. In order to assure that all agencies prepare for any future emergency situations, P.L. 109-365 added new requirements for state and area agencies' disaster and emergency planning. The law requires state and area agencies to include in their respective plans, information on how they will coordinate activities and develop long-term emergency preparedness plans with state and local emergency response agencies, relief organizations, state and local governments, and other organizations responsible for emergency preparedness and response. In addition, state agencies on aging are to include in their aging plans, information describing their involvement in the development, revision, and implementation of emergency preparedness plans, including the State Public Health Emergency Preparedness and Response Plan.²⁷

Voluntary Contributions for Title III Services

The Older Americans Act provides that each recipient of services should have an opportunity to voluntarily contribute toward the cost of all services. It stipulates that voluntary contributions must be allowed, and may be solicited, for all services provided under the act, as long as the method of solicitation is non-coercive. Among other things, older people may not be denied services if they do not contribute toward the costs of services. (The issue of allowing cost-sharing was an issue in previous Congresses; for further information, see CRS Report RL30055, *Older Americans Act: 2000 Reauthorization Legislation*, by Carol O'Shaughnessy.)

²⁵ AoA has recently issued an emergency assistance guide for state and area agencies on aging: *Administration on Aging, Emergency Assistance Guide 2006*. See http://www.aoa.gov/PRESS/preparedness/pdf/Attachment_1356.pdf; http://www.aoa.gov/PRESS/preparedness/pdf/Attachment_1357.pdf.

²⁶ The amount available may not exceed 2% of funds appropriated under Title IV of the act.

²⁷ For further information, see CRS Report RL33579, *The Public Health and Medical Response to Disasters: Federal Authority and Funding*, by Sarah A. Lister.

The law also makes a distinction between *cost-sharing* for certain services and *voluntary contributions* by older persons. Certain stipulations apply to cost-sharing, which is allowed for certain services. These include prohibiting states from applying cost-sharing for services to people who have low income (defined as income at or below the federal poverty level).^{28,29}

P.L. 109-365 added an amendment to the voluntary contributions provision in the act. (No changes were made to the provisions regarding *cost-sharing*.) The law stipulates that voluntary contributions shall be encouraged from individuals whose self-declared income is at or above 185% of the federal poverty level at contributions levels based on the cost of services. (However, the law did not change the provision that all older persons, regardless of income, are to be encouraged to make a *voluntary* contribution, but may not be denied a service for failure to contribute.) The amendment was intended to respond to concerns from aging service providers about the rising cost of services, especially nutrition services, without any substantial increase in federal or state funds, and that those who can afford to make a voluntary contribution should be encouraged to do so.

Title III Formula Allotments to States

P.L. 109-365 revised the formula for distribution of Title III allotments to states for supportive services, congregate and home-delivered nutrition services, and disease prevention and health promotion services.³⁰ The formula for allotment of Title III funds to states contains several factors: first, a state's relative share of the total U.S. population age 60 and over as compared to all states; second, a minimum grant amount for all states, defined as one-half of 1% of the total appropriation. P.L. 109-365 did not change these two parts of the formula.

Another provision contained in prior law was a requirement that no state receive less than it received in FY2000 (referred to as the FY2000 "hold harmless" amount), plus at least 20% of the percentage increase in appropriations for the respective programs above their FY2000 appropriations levels (referred to as the "guaranteed growth" factor). P.L. 109-365 revised this

²⁸ Other stipulations include (1) cost-sharing is not permitted for information and assistance, outreach, benefits counseling, case management, ombudsman, elder abuse prevention, legal assistance, consumer protection services, congregate and home-delivered nutrition services, and services delivered through tribal organizations; (2) cost-sharing must be applied on a sliding scale, based on income, and the cost of services. Income is to be established by individuals on a confidential self-declaration basis, with no requirement for verification. Service providers and area agencies on aging are prohibited from denying services to older individuals due to their income or failure to make cost-sharing payments; (3) states may not consider assets, savings, or other property owned by individuals when creating a sliding scale for cost sharing, or when seeking contributions. In addition, states may exclude from their cost-sharing policies other low-income persons who have income above the poverty level.

²⁹ States' implementation of the cost-sharing provisions added by the 2000 reauthorization legislation has been the subject of a Department of Health and Human Services/Office of the Inspector General (DHHS/OIG) review. Among other things, the review found that relatively few states (12) have implemented cost sharing; some of those states do not always follow the law's requirements that cost-sharing practices protect low-income individuals' access to services; and AoA has provided limited guidance to states on cost-sharing policy. The review recommended that AoA ensure that state practices adhere to the law's requirements and provide additional guidance to states, among other things. For further information, see *Cost Sharing for Older Americans Act Services*, OIG-02-04-00290, September 2006.

³⁰ This discussion does not pertain to allotment of funds for family caregiver services or to nutrition services incentive funds. These programs receive funds under different formulas. Family caregiver funds are allocated to states based on a state's relative share of the U.S. population aged 70 and over with a requirement that no state will receive less than one-half of one percent of the total appropriation. Funds for nutrition services incentive grants are allotted to states based on a formula that takes into account the number of meals served by each state's nutrition program the prior year. For further information, see CRS Report RS22549, *Older Americans Act: Funding Formulas*, by Kirsten J. Colello.

provision by (1) updating the hold harmless amount to FY2006, and (2) gradually eliminating the guaranteed growth factor over four years.

Thus, the law now requires that states (1) receive funds based on their relative share of the U.S. population age 60 and over; (2) receive no less than one-half of 1% of the total appropriation; and (3) receive no less than the amount they received for FY2006 (the FY2006 “hold harmless”) *plus a phased-out* guaranteed growth factor—that is, for FY2007, 20% of the percentage increase in appropriation amounts for the respective programs over the FY2006 amounts; for FY2008, 15%; for FY2009, 10%, and for FY2010, 5%. By FY2011, the formula allocation to states will be based on only the population factor and the minimum grant provisions.

Title IV. Activities for Health, Independence, and Longevity³¹

Title IV of the act authorizes the Assistant Secretary for Aging to award funds for training, research, and demonstration projects in the field of aging. Funds are to be used to expand knowledge about aging and the aging process and to test innovative ideas about services and programs for older persons. Over the years Title IV has supported a wide range of research and demonstration projects, including those related to income, health, housing, retirement, long-term care, as well as projects on career preparation and continuing education for personnel in the field of aging.

In recent years, AoA has funded a number of national efforts that support the work of state and area agencies on aging, including the National Long-Term Care Ombudsman Resource Center, the National Center on Elder Abuse, and other national resource centers that focus on legal assistance, retirement needs of minority populations, and the vulnerable elderly.

Other recent projects have included funding for Aging and Disability Resource Centers (ADRCs), and outreach activities to help Medicare beneficiaries understand their benefits under the Medicare Modernization Act (MMA) (both activities conducted in cooperation with CMS.) Other initiatives have included a nutrition and physical activity campaign (*You Can! Steps to Healthier Aging*); evidence-based health care interventions; and intergenerational opportunities that link older volunteers with children with disabilities whose support system is fragile.

P.L. 109-365 Amendments to Title IV

P.L. 109-365 added authority for the Assistant Secretary on Aging to conduct several new demonstration programs under Title IV. Among these are demonstrations for model projects to assist older people to age in place, including in Naturally Occurring Retirement Communities (NORCs); and for mental health services for older people.

Model Projects for Aging in Place

Many communities around the country are experimenting with ways to assist older people who have “aged in place,” that is who have resided in their own homes independently for many years, and now may need a variety of supportive services to assist them to continue to do so. In recent years, House and Senate appropriations legislation has included earmarks for a number of projects to provide support for organizations that assist these “Naturally Occurring Retirement Communities” (NORCs). For example, for FY2007, the House and Senate Appropriations

³¹ P.L. 109-365 changed the name of Title IV; it was formerly *Training, Research, and Discretionary Projects and Programs*.

Committees earmarked funds for, respectively, 15 and 5 NORC projects as part of the AoA Title IV research and demonstration program.³²

P.L. 109-365 added a requirement that the Assistant Secretary award Title IV funds to carry out model aging in place projects, including NORCs. The aim of these projects is to help sustain the independence of older individuals in communities where they have established personal, family, and professional supportive networks. The bill defines a “Naturally Occurring Retirement Community” as a residential building, a housing complex, an area (including a rural area) of single family residences, or a neighborhood composed of age-integrated housing where 40% of the heads of households are older people; or where a critical mass of older people lives which would allow a service provider to achieve efficiencies in providing health and social services to the group. Institutional care or assisted living settings are excluded from the definition.

Entities to receive funds under this demonstration are required to provide comprehensive and coordinated health and social services, including the following services: case management, case assistance, and social work services; health care management and health care assistance; education, socialization, and recreational activities; volunteer opportunities for project participants; outreach, and coordination of the Title III services for eligible older individuals served by the project.

Demonstration Efforts to Address Mental Illness in Older People

The law added a provision requiring the Assistant Secretary to make competitive grants to states to develop systems for the delivery of mental health screening and treatment services for older individuals who lack access to such services and programs. The purpose of the grants would be to

- increase public awareness regarding the benefits of prevention and treatment of mental disorders in older individuals;
- reduce the stigma associated with mental disorders in older individuals and other barriers to the diagnosis and treatment of the disorders; and
- reduce age-related prejudice and discrimination regarding mental disorders in older individuals.

Other Research and Demonstration Activities

P.L. 109-365 authorized the Assistant Secretary on Aging to award Title IV funds for a number of other demonstration projects. Among others, these include

- planning activities to prepare communities for the aging of the population;
- development, implementation and assessment of technology-based service models to support health monitoring, communication devices, assistive technologies, and other technology to remotely connect family and professional caregivers to frail older individuals;
- activities to promote improved support to family and other informal caregivers of older people;
- efforts to build awareness of cognitive impairments affecting older people;

³² House Committee on Appropriations, *Departments of Labor, Health and Human Services, and Education, and Related Agencies*, H.Rept. 109-515, 109th Cong., 2nd sess., p. 161ff; Senate Committee on Appropriations, *Departments of Labor, Health and Human Services, and Education and Related Agencies*, S.Rept. 109-287, 109th Cong., 2nd sess., p. 12.

- efforts to promote civic engagement activities by older people; and
- innovative approaches to improve transportation services for older people, such as volunteer driver programs, economically sustainable transportation programs, and programs to allow older people to transfer their cars to transportation providers in exchange for transportation services.

Title V. Community Service Senior Opportunities Act³³

The community service employment program for older Americans has as its purpose the promotion of useful part-time opportunities in community service activities for unemployed low-income persons who are 55 years or older and who have poor employment prospects. The program is the primary job creation program for adults since the elimination of public service employment under the Comprehensive Employment and Training Act (CETA).³⁴ Modeled after a pilot program called Operation Mainstream, it was first funded in 1965. Operation Mainstream was designed to employ poor, chronically unemployed adults and operated primarily in rural areas. In 1967, administrative responsibility for Operation Mainstream was transferred from the Office of Economic Opportunity to the Department of Labor (DOL), but funding authority continued under the Economic Opportunity Act. In 1973, the program was given a statutory basis under Title IX of the Older American Comprehensive Services Amendments. The 1975 amendments to the Older Americans Act incorporated the program as Title IX of the act, and the 1978 amendments redesignated the program as Title V. The program continues to be administered by DOL.

For FY2006, the community service employment program represented almost one-quarter of OAA funds (\$432 million out of \$1.78 billion). The program not only provides opportunities for part-time employment and income for older persons, but also contributes to the general welfare of communities by providing a source of labor for various community service activities. Enrollees work part-time in a variety of community service activities. The program provides for 61,050 jobs, serving about 92,300 persons in FY2006. The annual cost per slot in FY2006 was \$7,081.

Enrollees are paid no less than the highest of the federal minimum wage, the state or local minimum wage, or the prevailing wage paid by the same employer for similar public occupations. In addition to wages, enrollees receive physical examinations, personal and job-related counseling, and transportation for employment purposes, under certain circumstances. Participants also may receive on-the-job training. Enrollees are paid at the established rate of pay when participating in training.

Persons eligible to participate in the program are those who are 55 years of age or older, whose income does not exceed 125% of the DHHS poverty level guidelines (\$12,250 for a one-person household in 2006 in the contiguous United States; higher amounts in Alaska and Hawaii). (For further information on eligibility, see the section below on changes made by P.L. 109-365.)

Current DOL regulations³⁵ give first priority to veterans and qualified veteran spouses at least 60 years old; second priority to other persons at least 60 years old; third priority to veterans and

³³ P.L. 109-365 changed the name of Title V; it was formerly the *Older American Community Service Employment Program*.

³⁴ The Rehabilitation Act authorizes a community service employment program for persons with disabilities. It has never been funded. Another program, the Senior Environmental Employment (SEE) Program, provides an opportunity for retired and unemployed older Americans age 55 and over to work in jobs for grantees of the Environmental Protection Agency (EPA). See <http://www.epa.gov/ohr/see/brochure/>.

³⁵ U.S. Department of Labor, Employment and Training Administration. 20 CFR Part 641, April 1, 2006.

qualified veteran spouses aged 55-59; and fourth priority to other persons aged 55-59. The regulations also state that “special consideration” should be given to persons with incomes below the poverty level, persons with poor employment prospects, persons with the greatest social and/or economic need, eligible minorities, limited English speakers, and Indians. Regulations forbid an upper age limit, and they require annual recertification of income.

Title V wages are exempted in determining eligibility and level of benefits for the food stamp program and for federal housing programs. Enrollee wages are subject to federal, state, and local taxes, and participants contribute to social security. Wages received under Title V are counted when determining eligibility for certain income-tested programs, such as the supplemental security income (SSI) program.

Funds under the program are distributed to states and to national organizations according to a set of requirements that include a FY2000 *hold harmless* amount (funds are distributed to state agencies and national organizations at their FY2000 level of activities) in addition to relative state population aged 55 and over and the relative state per capita income.

In 2002 and again in 2006, DOL initiated a competitive grant award process for distribution of funds to national organizations. The process was effective with the release of funds for FY2003 (for use during program year (PY) 2003-2004—July 1, 2003-June 30, 2004). Prior to that time, funds allocated for national organizations had been awarded on a non-competitive basis to nine public or nonprofit private organizations and one public agency, the U.S. Forest Service in the U.S. Department of Agriculture (USDA). The initiation of the competitive grant process has resulted in distribution of funds to more organizations; some organizations that received funds prior to the competitive process either received some reduction in funds or did not receive funds after competition.

Table 1 shows the distribution of funds to national organizations and states for program years (PY) 2005 and 2006 (that is, for July 1, 2005-June 30, 2006, and for July 1, 2006-June 30, 2007, respectively). In PY2005, 13 organizations received funds, in addition to state agencies. In PY 2006, 18 organizations received funds, in addition to state agencies.

Table I. Title V of the Older Americans Act: PY2005 and PY2006 Funding and Participant Positions for National Organizations and State Sponsors

Sponsor	PY2005 amount (millions)^a	% of total amount	PY2005 participant positions	PY2006 amount (millions)^a	% of total amount	PY2006 participant positions
AARP Foundation Programs	\$73.5	16.8%	10,269	\$69.7	16.1%	9,751
Asociación Nacional Pro Personas Mayores	\$7.7	1.8%	1,074	\$8.1	1.9%	1,133
Easter Seals, Inc.	\$16.1	3.7%	2,248	\$16.0	3.7%	2,236
Experience Works ^b	85.8	19.6%	11,995	\$83.4	19.3%	11,657
Goodwill Industries International, Inc.	Not funded	—	—	\$10.4	2.4%	1,460
Institute for Indian Development, Inc.	Not funded	—	—	\$1.5	0.3%	205
Mature Services, Inc.	\$5.4	1.2%	771	\$5.0	1.2%	695
National ABLE Network	\$5.4	1.2%	760	\$5.6	1.3%	777
National Asian Pacific Center on Aging	\$6.0	1.4%	836	\$6.0	1.4%	835
National Caucus and Center on the Black Aged, Inc.	\$15.2	3.5%	2,129	\$13.0	3.0%	1,821
National Council on the Aging	\$21.8	5.9%	3,053	\$24.9	5.8%	3,475
National Indian Council on Aging	\$6.0	1.4%	842	\$4.5	1.0%	630
National Urban League	not funded	—	—	\$8.7	2.0%	1,222
Quality Career Services, Inc.	not funded	—	—	\$1.5	0.3%	205
Senior Services America, Inc. ^c	\$51.0	11.0%	7,175	\$50.0	11.6%	6,986
SER-Jobs for Progress National, Inc.	\$26.2	5.9%	3,658	\$25.1	5.8%	3,513
The Workplace, Inc.	not funded	—	—	\$2.0	0.5%	273

Sponsor	PY2005 amount (millions)^a	% of total amount	PY2005 participant positions	PY2006 amount (millions)^a	% of total amount	PY2006 participant positions
U.S. Forest Service	\$20.4	4.6%	2,848	d	d	d
Vermont Associates for Training and Development, Inc.	not funded	—	—	\$1.8	0.4%	258
National organization sponsors, total	\$340.5	78%	47,658	\$337.2	78%	47,133
State and territorial sponsors, total	\$96.2	22%	13,439	\$95.6	22%	13,206
Total	\$436.7	100%	61,047	\$432.8	100%	60,339

Source: Employment & Training Administration, U.S. Department of Labor.

- a. Funds are used for the period July 1-June 30. PY2006 funds are an annualized projection; in some cases national organization grantee final will differ due to transition-related delays between PY2005 to PY2006 grants. Grantees received a portion of their PY2006 amounts to be used for the first quarter of PY23006
- b. Formerly Green Thumb, Inc.
- c. Funds for this organization were previously administered by the National Council of Senior Citizens.
- d. Did not receive a full grant for PY2006 but received funds for the first quarter only.

P.L. 109-365 Amendments to Title V

Program Purpose

One of the issues under discussion by the 109th Congress was the future direction of the program. The original House-passed and Senate-committee approved bills (H.R. 5293 and S. 3570) took different approaches. The proposals in H.R. 5293 were wider in scope than those in S. 3570, and many of its proposed changes emanated from the view that the program should place more emphasis on training of participants for unsubsidized employment than exists under the current program. While H.R. 5293 would have retained the community service nature of the jobs in which enrollees are placed, it also would have allowed enrollees to be placed in private, for-profit employment while serving as Title V enrollees.

Ultimately, P.L. 109-365 maintained the program focus on employing older people in community service jobs, and did not include the proposal to allow grantees to place Title V enrollees in private, for-profit employment. The law did allow grantees to increase their efforts on training of participants for unsubsidized employment. It did so by allowing grantees to use an increased amount of their funds on certain activities, such as training, as described below.

The law stipulated that at least 75% of a project's funds are to be used for wages, benefits, and other enrollee costs, such as the costs of physical exams, federal holiday pay and sick leave (that is not part of an accumulated sick leave program). The law also stipulated that a Title V grantee may make a request to the Secretary to spend a lesser amount, that is, at least 65% of funds on these costs, and may do so if approved by the Secretary. In this case, the grantee may use part of the remainder of funds (up to 10%) for certain other activities, including training (on the job, classroom, or other training), job placement assistance, and participant supportive services³⁶ (but not for costs of administration).³⁷ The law stipulated that participants in training will receive Title V wages. The remainder of funds, after deducting the allowable amount for administration, is to be used to pay for the costs of these Title V activities as well as outreach to, and recruitment, selection, intake, orientation and assessment of, eligible individuals.

Eligibility

Prior to enactment of P.L. 109-365, DOL policy, but not the law, specified income sources that were to be considered when determining an individual's eligibility for the Title V program, and how income was to be calculated. P.L. 109-365 now stipulates certain income exclusions and how income is to be calculated.

Income Sources. In 1995, DOL issued income determination guidelines to be used in determining an individual's Title V eligibility. The 1995 guidelines excluded 25% of Social Security income, Social Security Disability Insurance (SSDI) income, unemployment compensation, veterans' payments, and \$3,000 of interest and dividend income. In 2005, DOL issued revised guidelines and changed some of the income criteria to be considered when determining eligibility. The 2005

³⁶ Supportive services are defined in P.L. 109-365 as the cost of transportation, health and medical services, special job-related or personal counseling, incidentals (such as work shoes, badges, uniforms, eyeglasses and tools), child and adult care, dependent care, temporary shelter, housing, needs-related payments, and follow-up services. *Note:* supportive services are defined in two sections of the law, Section 502(c)(6)(A)(iv) and Section 518(a)(7).

³⁷ The law requires that a project may use up to 13.5% of its funds for administration; in certain circumstances, a project may use up to 15% of its funds.

guidelines stipulated that Title V project sponsors were required to *include* as income the following when determining eligibility: all of Social Security income, including SSDI income (minus Medicare deductions for persons age 65 or older), unemployment compensation, veterans' payments, all interest and dividends as well as earnings, pension income, rents, and alimony, among other things.³⁸

The 2005 guidelines required project sponsors to *exclude* as income the following: Supplemental Security Income (SSI), capital gains (or losses) from the sale of property, withdrawals of bank deposits, money borrowed, tax refunds, gifts, lump-sum inheritances or insurance payments, public assistance payments, disability payments (except Social Security Disability Insurance), child support, worker's compensation, gambling and lottery earnings, and the first \$2,000 of certain per capita fund distributions to Indians.³⁹

In a 2005 review of the program, the Government Accountability Office (GAO) found that most national and state grantees surveyed expressed concern with some of the 2005 revised income criteria, specifically those including SSDI and Social Security. As an example, one national grantee stated that including SSDI is "especially onerous because individuals receiving SSDI are among the hardest to serve. A state grantee stated that SSDI should not be included in determining program eligibility because other disability benefits were not included in calculating income eligibility." Another expressed concern about the inclusion of all of Social Security income.⁴⁰

In response to these concerns, Congress specified in P.L. 109-365 certain income sources to be excluded when determining a person's income. The law now *excludes* as income the following sources (some that the 2005 DOL guidelines had previously required project sponsors to include): SSI benefits, 25% of benefits received under Title II of the Social Security Act, unemployment compensation, and payments made to, or on behalf of, veterans or former members of the Armed Forces under laws administered by the Secretary of Veterans Affairs (VA).

³⁸ U.S. Department of Labor, Training and Employment Guidance Letter No.13-04, *Revised Income Definitions and Income Inclusions and Exclusions for Determining Senior Community Service Employment Program (SCSEP) Eligibility* (January 7, 2005) http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=1672. The letter supercedes U.S. Department of Labor, Older Worker Bulletins, nos. 04-5 and 95-5 http://www.doleta.gov/Seniors/html_docs/Library.cfm.

³⁹ U.S. Department of Labor, Training and Employment Guidance Letter No.13-04: *Revised Income Definitions and Income Inclusions and Exclusions for Determining Senior Community Service Employment Program (SCSEP) Eligibility* (January 7, 2005) http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=1672. The letter supercedes U.S. Department of Labor, Older Worker Bulletins, nos. 04-5 and 95-5 http://www.doleta.gov/Seniors/html_docs/Library.cfm.

⁴⁰ U.S. Government Accountability Office (GAO). *Senior Community Service Employment Program: Labor Has Made Progress Implementing Older Americans Act Amendments of 2000, but Challenges Remain*, Testimony before the U.S. Senate Special Committee on Aging. GAO-06-549T, April 6, 2006.

Calculation of Income. Since 2004, DOL issued two sets of revised guidelines on how income is to be determined, first in April, 2004, and then again in January 2005.⁴¹ Prior to these changes, grantees could determine income using *either* an individual's income for the 12 months or six months prior to application (i.e., a 12- or six-month look-back period). The April 2004 guidelines stipulated that grantees were to use a 12-month look-back period prior to application; this requirement was changed nine months later to require that the look-back period be the annualized income for the six-month period prior to application.⁴² DOL indicated that changing the period for income calculation was intended to simplify the process and obtain the most recent income.⁴³

GAO found concerns among many national and state grantees about DOL's revised guidance. Some noted that annualizing six months of income could distort income for people who had income only for the last six months, for example, seasonal farmworkers. The effect could have the unintended consequence of making these people ineligible for Title V jobs.

As a result of these concerns, Congress stipulated in P.L. 109-365 that income is to be calculated for the 12-month period ending on the date an eligible individual submits an application. At its option, a Title V grantee may use an individual's annualized income for the six-month period ending on the date of application.

Time Limit on Participant Enrollment

Prior to passage of P.L. 109-365, there was no time limit on how long an enrollee may spend as a Title V participant. However, DOL regulations allowed grantees to establish a maximum duration of enrollment when authorized by DOL. DOL data showed that the average length of time participants spend in the program is about 27 months.

Duration of enrollment was an issue in both the original House and Senate bills, which differed in length of time that participants could be enrolled. Ultimately, P.L. 109-365 stipulated that, beginning July 1, 2007, eligible individuals may participate in the program for a period up to 48 months. The Secretary of DOL is required to authorize a grantee, upon the grantee's request, to increase the period of participation for the following hard-to-serve individuals: those who have a severe disability; are frail or age 75 or older; meet the age eligibility for Title II of the Social Security Act, but are not receiving benefits; live in an area with persistent unemployment and are individuals with severely limited employment prospects; or have limited English proficiency or low literacy skills.

The law also established an overall average enrollment duration cap for grantees. It stipulated that grantees are subject to an average participation cap for enrollment of 27 months. A grantee may request an extended period of enrollment for a specific area where the grantee operates, up to a period of not more than 36 months. The Secretary may approve the request if the Secretary determines that extenuating circumstances exist, pertaining to the following factors: high rates of unemployment, or poverty, or participation by enrollees in Temporary Assistance for Needy Families (TANF) in the area served by the grantee, relative to other areas of the state or nation;

⁴¹ U.S. Department of Labor, Older Worker Bulletin No. 04-05, *Income Definitions and Income Exclusions for Determining Senior Community Service Employment Program (SCSEP) Eligibility*. April 12, 2004. Also, *Ibid.*, U.S. Department of Labor, Training and Employment Guidance Letter No.13-04: *Revised Income Definitions and Income Inclusions and Exclusions for Determining Senior Community Service Employment Program (SCSEP) Eligibility* (January 7, 2005) http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=1672.

⁴² *Ibid.*, U.S. Department of Labor, Training and Employment Guidance Letter No.13-04: *Revised Income Definitions and Income Inclusions and Exclusions for Determining Senior Community Service Employment Program (SCSEP) Eligibility* (January 7, 2005).

⁴³ *Ibid.*, GAO, p. 18.

significant downturns in the economy in the area served by the grantee or in the national economy; significant numbers or proportions of participants with more barriers to employment; changes in the federal, state or local minimum wage; and limited economies of scale for Title V activities in the area served by the grantee.

Competition and Grantee Performance Indicators

The 2000 reauthorization for the first time added in law a set of performance indicators that were to be applied to state agency and national organization grantees. At the end of each program year, the Secretary was directed to determine if each national grantee had met national performance measures as set forth in the statute.⁴⁴ If a grantee failed to meet the performance standards for a given year, the grantee had to submit a corrective action plan. If the grantee failed over a two- or three-year period to meet the indicators, some (or all) of a grantee's funds were to be reduced or eliminated and awarded to other grantees. DOL published final regulations stipulating how performance standards were to be applied on April 9, 2004.⁴⁵

Before performance standards were finalized, on November 8, 2002, DOL announced a national competition for soliciting grant applications for the national organization grants portion of FY2003 Title V funding.⁴⁶ As indicated earlier, for many years DOL distributed 78% of Title V funds on a *noncompetitive* basis to 10 entities. According to GAO, the 2002 competition resulted in a "significant reshuffling of funds and positions among incumbent grantees."⁴⁷ Three years later, on March 2, 2006, DOL again called for a national competition for the national organization portion of Title V funds.⁴⁸ During the first national competition in 2002, many national grantees raised issues regarding DOL's authority to award funds on a competitive basis. However, the act never explicitly stated whether the national grants are to be funded on a competitive or a noncompetitive basis.

The DOL competitive awards process and the implementation of the performance indicators were issues discussed during the 2006 reauthorization process. Some organizations indicated that the three-year competitive cycle was difficult to implement—new grantees needed at least one year or more to ramp up grantee activities, for example, to hire staff, conduct outreach to eligible individuals, assess their needs, and place them in subsidized jobs. They would then have one or two years to operate before having to reapply for competitive funds, using the DOL performance indicators. In addition, some grantees pointed to the time lag in DOL's publication of the performance indicators—DOL published the performance indicators in April 2004, but implemented the national competition in 2002, thereby, according to grantees, placing them at a disadvantage.

⁴⁴ In addition to performance standards, the 2000 amendments added a set of "responsibility tests" to determine an applicant's overall ability to administer federal funds. Applicants determined to be not responsible according to the statutory criteria may not be selected as national grantees.

⁴⁵ U.S. Department of Labor, Employment and Training Administration. 20 CFR Part 641, April 1, 2006.

⁴⁶ 67 *Federal Register* 68178 (November 8, 2002). DOL gave the following rationale for opening the application process to competition: "The Department is holding a full and open competition for SCSEP national grant funds in order to provide better services to SCSEP participants, host agencies, employers, and the communities that the national grant program serves. Open competition is not only the preferred vehicle for obtaining new grantees, but in most cases, it is the required vehicle for obtaining new grantees....The Department favors full and open competition because it provides the Department with an opportunity to ensure that the best applicants are awarded grants and the program is administered to its full potential. It also allows new and different entities, including faith-based and community-based organizations, to become a part of the grantee community."

⁴⁷ *Ibid.*, GAO-06-549T, p. 70.

⁴⁸ 71 *Federal Register*, pp. 10798-10820, March 2, 2006.

As a result of these concerns, Congress in P.L. 109-365 made a number of changes to requirements for competition and grantee performance. First, the law required DOL to hold a national competition for national grantee funds every four years, rather than every three years (which had been DOL recent practice). After each year of grantee operation, DOL is to evaluate national organization grantees based on the performance indicators established by the law (see below). Second, if national grantees fail to perform they will receive technical assistance from DOL, and are to take corrective action. Unlike prior law, national grantees will not be subject to reduction or withdrawal of funds due to failure to meet the performance indicators. However, if a national organization grantee fails to meet the performance indicators for four consecutive years, it is prohibited from participating in the next competitive grant cycle. If a national organization grantee meets the performance standards for four consecutive years, it may continue to receive funds for an additional year.

The process for competition, technical assistance, and corrective action is similar for state agency grantees. However, state agency grantees are subject to a realignment of funds if the Secretary determines that they have failed to meet the performance indicators for three consecutive years. In this case, the Secretary is required to have the state conduct a competition to award its funds for the year following the Secretary's determination.

Indicators of performance by grantees. Prior to P.L. 109-365, the law established five indicators of performance; DOL regulations further defined these indicators.⁴⁹ The indicators were: number of persons served, with particular consideration to individuals with greatest economic or social need, or with poor employment history or prospects, and those over the age of 60; community services provided; placement and retention in unsubsidized public or private employment; satisfaction of enrollees, employers, and host agencies with experiences and services provided; and other indicators determined by the Secretary.

P.L. 109-365 revised the indicators and divided them into *core* indicators and *additional* indicators. *Core* indicators now include hours (in the aggregate) of community service and earnings. Similar to prior law, they also include entry and retention into unsubsidized employment, and the number of eligible individuals served, including those who are hard-to-serve. Hard-to-serve individuals are defined as those with a disability, are age 65 or older, are frail, meet the age eligibility under Title II of the Social Security but do not receive benefits; live in an area with persistent unemployment; are individuals with severely limited employment prospects; reside in a rural area; are veterans; have failed to find employment after using Workforce Investment Act (WIA) services; are homeless or at risk for homelessness.

Additional indicators are retention in unsubsidized employment for one year; satisfaction of the participants, employers, and their host agencies with their experiences and the services provided; and any other indicators determined by the Secretary.

The Secretary of DOL is required to establish and implement the core and additional performance indicators by July 1, 2007. The Secretary is prohibited from holding a grant competition until the later of (1) the date of implementation of indicators, or (2) January 1, 2010. Also, the Secretary is required to issue definitions for the performance indicators, after consultation with national and state grantees, representatives of business and labor organizations, and providers. The Secretary and grantees are required to agree on expected levels of performance, and the Secretary is required to make them publicly available. In addition, the Secretary is required to annually evaluate and publish each grantee's actual performance levels.

⁴⁹ U.S. Department of Labor, Employment and Training Administration 20 CFR Part 641. Senior Community Service Employment Program; Final Rule. *Federal Register*, April 9, 2004.

Enrollee Placement in Unsubsidized Employment

The 2000 amendments to the act codified in law a DOL regulation regarding placement of enrollees into unsubsidized employment. These amendments required that grantees place at least 20% of enrollees into unsubsidized employment. The law defined “placement into public or private unsubsidized employment” as full- or part-time employment in the public or private sector by an enrollee for 30 days within a 90-day period without using a federal or state subsidy program.

P.L. 109-365 made changes to this requirement and stipulated that more emphasis be placed on unsubsidized employment through the implementation of the performance indicator on assisting enrollees enter into unsubsidized employment as described above. The law stipulated that the minimum percentage for the level of performance related to entry of enrollees into unsubsidized employment is as follows: for FY2007, grantees are expected to place 21% of enrollees into unsubsidized employment; for FY2008, 22%; for FY2009, 23%; for FY2010, 24%; and for FY2011, 25%. Unlike the prior law, P.L. 109-365 did not define entry into unsubsidized employment. Instead, it stipulated that the Secretary shall issue regulations to define the indicators of performance.

Title VI. Grants for Services for Native Americans

Title VI authorizes funds for supportive and nutrition services to older Native Americans. Funds are awarded directly by AoA to Indian tribal organizations, Native Alaskan organizations, and non-profit groups representing Native Hawaiians. To be eligible for funding, a tribal organization must represent at least 50 Native American elders age 60 or older. In FY2005, grants were awarded to 236 tribal organizations representing approximately 300 Indian tribes and two organizations serving Native Hawaiian elders.

The 2000 amendments (P.L. 106-501) added a new part to Title VI authorizing caregiver support services to Native American elders. Most frequently provided services under the program are transportation, home-delivered and congregate nutrition services, and a wide range of home care services.

P.L. 109-365 Amendments to Title VI

P.L. 109-365 allowed tribal organizations who had previously applied for grants as part of a consortium of tribal organizations to apply for grants even if the tribal organization submits an application separate from the remaining members of the consortium, or as one of the remaining members of the consortium. Previously, an organization that had received funds as part of a consortium could not reapply for Title VI funds as an independent organization.

Title VII. Vulnerable Elder Rights Protection Activities

Title VII authorizes the long-term care ombudsman program as well as elder abuse, neglect and exploitation prevention programs.⁵⁰ Other programs are authorized, but not funded, that is, legal assistance development and the Native American elder rights program. (Another new elder justice grant program was authorized by P.L. 109-365; see below.)

⁵⁰ For further information, see CRS Report RS21297, *Older Americans Act: Long-Term Care Ombudsman Program*, by Kirsten J. Colello.

Funding for ombudsman and elder abuse prevention activities is allotted to states based on a state's relative share of the total population age 60 and older. State agencies on aging may award funds for these activities to a variety of organizations for administration, including other state agencies, area agencies on aging, county governments, nonprofit service providers, or volunteer organizations.

Most Title VII funding is directed at the long-term care ombudsman program. Of \$20.1 million appropriated for FY2006, almost three-quarters was for ombudsman activities. The purpose of the program is to investigate and resolve complaints of residents of nursing facilities, board and care facilities, and other adult care homes. It is the only Older Americans Act program that focuses solely on the needs of institutionalized persons. Complaints may relate to action, inaction or decisions of long-term care providers or their representatives and other actions that adversely affect the health, safety, welfare or rights of residents. Among their responsibilities, ombudsmen are required to provide services to assist in protection of residents, inform them about how to obtain services, and represent their interests before government agencies.

The ombudsman program leverages funds from a number of sources, other than the Older Americans Act.⁵¹ In FY2005, \$78.6 million supported this program from all sources combined (federal and non-federal). About 58% of the total program effort came from the Older Americans Act (from both Title VII and Title III funds) and other federal sources; the remainder came from state and other non-federal sources.⁵²

In FY2005, there were 52 territorial programs and 572 local programs, with about 1,278 paid staff (full-time equivalents). The program relies heavily on volunteers to carry out ombudsman responsibilities—more than 13,800 volunteers assisted paid staff in FY2005. In FY2005, AoA data show that state and local ombudsman programs opened just over 194,000 new cases of resident complaints and closed more than 187,000 cases in all types of facilities. Most complaints related to resident care, resident rights, and quality of life issues.⁵³

P.L. 109-365 Amendments to Title VII

Elder Justice Grants

P.L. 109-365 authorized a new state grant program to promote comprehensive elder justice systems. The law authorized the Assistant Secretary to award competitive grants to states for elder justice systems which are to provide for convenient public access to the range of available elder justice information, programs and services; coordinate the efforts of public health, social service and law enforcement authorities to identify and diminish duplication and gaps in the system; and provide a uniform method for standardization, collection, management, analysis and reporting data on elder justice issues.

States that receive grants are to develop and implement a comprehensive elder justice system by taking the following steps: establishing a formal working relationship among public and private elder justice providers and stakeholders in order to create a unified system across the state; facilitating and supporting the development of a management information system and standard data elements; and providing for appropriate education, training and technical assistance.

⁵¹ States receive a separate allotment of funds for ombudsman activities under Title VII; in addition, they may use Title III funds to support these activities.

⁵² Administration on Aging, *Elder Rights: LTC Ombudsman: National and State Data*, http://www.aoa.gov/prof/aoaprogram/elder_rights/LTCOmbudsman/National_and_State_Data/national_and_state_data.asp.

⁵³ Ibid.

Older Americans Act Authorization of Appropriations

Table 2 shows the authorization of appropriations for each title of the act as stipulated by P.L. 109-365.

Table 2. Authorization of Appropriations for Older Americans Act Programs in P.L. 109-365

Older Americans Act Programs	Authorization of Appropriations
Title II, Administration on Aging	
Administration on Aging	FY2007-FY2011, such sums as may be necessary.
Eldercare Locator	FY2007-FY2011, such sums as may be necessary.
Pension counseling and information program	FY2007-FY2011, such sums as may be necessary.
Title III, State and Community Programs on Aging	
Supportive services and centers	FY2007-FY2011, such sums as may be necessary.
Congregate nutrition services	FY2007-FY2011, such sums as may be necessary.
Home-delivered nutrition services	FY2007-FY2011, such sums as may be necessary.
Disease prevention and health promotion	FY2007-FY2011, such sums as may be necessary.
Family caregiver support	FY2007, \$160 million; FY2008, \$165.5 million; FY2009, \$173 million; FY2010, \$180 million; FY2011, \$187 million.
Nutrition services incentive program (formerly the USDA commodity or cash-in-lieu of commodities program)	FY2007-FY2011, such sums as may be necessary.
Title IV, Activities for Health, Independence, and Longevity	
	FY2007-FY2011, such sums as may be necessary.
Title V, Community Service Senior Opportunities Act	
	FY2007-FY2011, such sums as may be necessary.
Title VI, Grants for Native Americans	
Indian and Native Hawaiian programs	FY2007-FY2011, such sums as may be necessary.
Native American caregiver support program	FY2007, \$6.5 million; FY2008, \$6.8 million; FY2009, \$7.2 million; FY2010, \$7.5 million; FY2011, \$7.9 million.
Title VII, Vulnerable Elder Rights Protection Activities	
Subtitle A—State Programs	
Long-term care ombudsman program	FY2007-FY2011, such sums as may be necessary.
Elder abuse, neglect, and exploitation prevention program	FY2007-FY2011, such sums as may be necessary.
Legal assistance development program	FY2007-FY2011, such sums as may be necessary.
Subtitle B—Native American Organization and Elder Justice Provisions	
Native American elder rights program	FY2007-FY2011, such sums as may be necessary.
Grants for state elder justice systems	No authorization specified.

Older Americans Act Appropriations

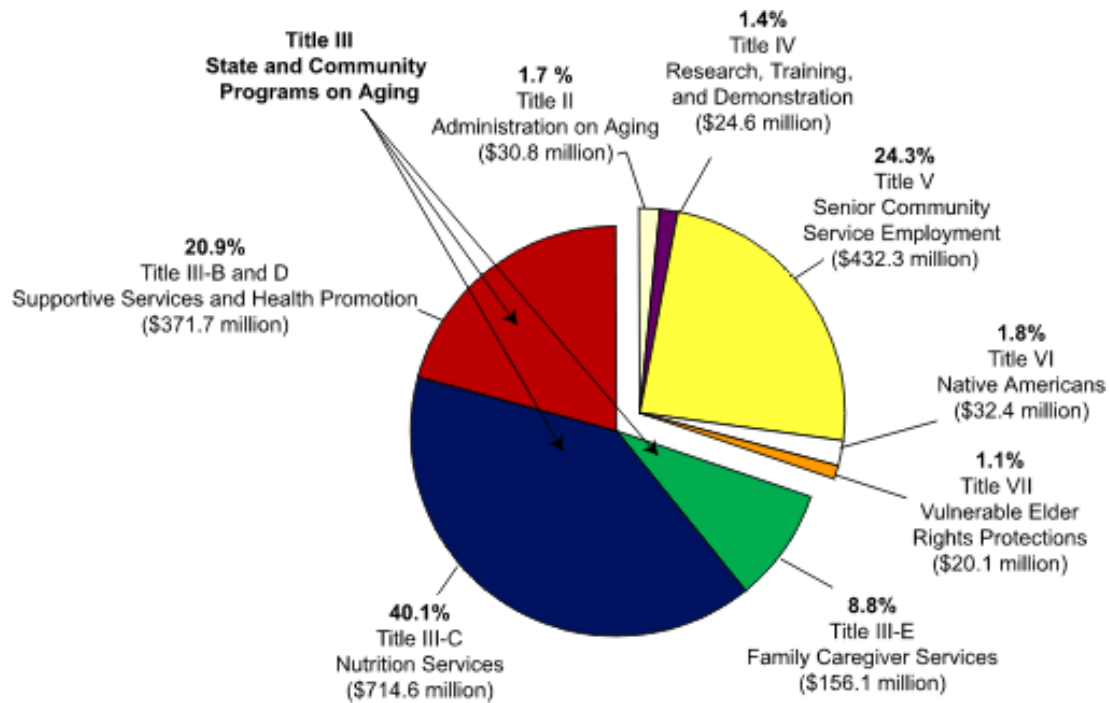
Funding for most Older Americans Act programs is provided through appropriations legislation for the Departments of Labor, Health and Human Services, Education and Related Agencies (Labor-HHS-ED). Funds for all AoA programs (Titles II, III, IV, VI, and VII) are part of the HHS appropriations; Title V is part of the DoL appropriations. In FY2003, Congress transferred administrative authority for the nutrition services incentive grant program from the U.S. Department of Agriculture (USDA), where it had been since its inception, to AoA. The program retains a separate authorization of appropriations under Title III and its appropriations are part of the Labor-HHS-ED appropriations legislation.

FY2006 Appropriations. For FY2006, the act was funded at \$1.783 billion, which overall represents a 2% reduction from the FY2005 level. This amount includes the 1% across-the-board reduction in all federal discretionary programs required by P.L. 109-148. Although some programs received slight increases, such as the Title VII long-term care ombudsman and the elder abuse prevention programs (increases of 6% and less than 1%, respectively), most programs received slight decreases. A major reduction was made in the Title IV research, training, and discretionary projects program, which was reduced by 43% from the FY2005 level. This is because the FY2006 amount does not include earmarked amounts approved for specific projects required by Congress for FY2005.

Table 3 shows appropriations history for the act's programs for FY1999-FY2006. Appropriations amounts for previous years are available in CRS Report RL32437, *Older Americans Act: History of Appropriations, FY1966-FY2004*, by Carol O'Shaughnessy. For information on FY2007 appropriations, see CRS Report RL33880, *Older Americans Act (OAA) Funding*, by Angela Napili.

Figure 1 shows the distribution of FY2006 funding by program.

Figure I. Older Americans Act, FY2006 Funding (\$1.8 billion)



Source: Prepared by CRS based on FY2006 appropriations legislation.

**Table 3. The Older Americans Act, Alzheimer's Demonstration Grants, and White House Conference
on Aging Funding, FY1999-FY2006**

(\$ in millions)

OAA Programs and Alzheimer's Demonstration Grants	FY1999	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005^a	FY2006^b
TITLE II: Administration on Aging	\$15.395	\$16.461	\$17.232	\$20.501	\$20.233	\$30.618	\$31.567	\$30.812
<i>Program administration</i>	15.395	16.461	17.232	18.122	17.869	17.324	18.301	17.688
<i>Aging network support activities</i>				2.379 ^c	2.364 ^c	13.294 ^d	13.266 ^d	13.124 ^d
TITLE III: Grants for State and Community Programs on Aging	952.339	987.617	1,151.285	1,230.293	1,240.891	1,243.059	1,250.192	1,242.378
<i>Supportive services and centers</i>	300.192	310.082	325.082	357.000	355.673	353.889	354.136	350.354
<i>Family caregivers</i>			125.000	136.000 ^e	149.025 ^e	152.738 ^e	155.744 ^e	156.060 ^e
<i>Disease prevention/health promotion</i>	16.123	16.123	21.123	21.123	21.919	21.970	21.616	21.385
<i>Nutrition services</i>	626.261	661.412	680.080	716.170	714.274	714.462	718.696	714.579
—Congregate meals	(374.261)	(374.336)	(378.412)	(390.000)	(384.592)	(386.353)	(387.274)	(385.054)
—Home-delivered meals	(112.000)	(146.970)	(152.000)	(176.500)	(180.985)	(179.917)	(182.826)	(181.781)
—Nutrition services incentive grants	(140.000)	(140.000)	(149.668) ^f	(149.670)	(148.697) ^g	(148.192)	(148.596)	(147.744)
<i>In-home services for the frail elderly</i>	9.763	0	^h	^h	^h	^h	^h	^h
TITLE IV: Activities for Health, Independence, and Longevity	18.000	31.162	37.678	38.280	40.258	33.509ⁱ	43.286	24.578
TITLE V: Community Service Senior Opportunities Act	440.200	440.200	440.200	445.100	442.306	438.650	436.678	432.311
TITLE VI: Grants to Native Americans	18.457	18.457	23.457	31.229	33.704	32.771	32.702	32.353
<i>Supportive and nutrition services</i>				25.729	27.495	26.453	26.398	26.116
<i>Native American caregivers</i>				5.500	6.209	6.318	6.304	6.237
TITLE VII: Vulnerable Elder Rights Protection Activities	12.181	13.181	14.181	17.681	18.559	19.444	19.288	20.142
<i>Long-term care ombudsman program</i>	7.449	^j	^j	^j	^j	(14.276)	14.162	15.000
<i>Elder abuse prevention</i>	4.732	^j	^j	^j	^j	5.168	5.126	5.142

OAA Programs and Alzheimer's Demonstration Grants	FY1999	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005^a	FY2006^b
<i>Legal assistance</i>	0	0	0	0	0	0	0	0
<i>Native Americans elder rights program</i>	0	0	0	0	0	0	0	0
Total, Older Americans Act Programs	\$1,456.569	\$1,507.078	\$1,684.033	\$1,783.084	\$1,771.057	\$1,798.051	\$1,813.713	\$1,782.574
Alzheimer's Demonstration Grants^k	\$5.970	\$5.970	\$8.962	\$11.500	\$13.412	\$11.883	\$11.786	\$11.660
White House Conf. on Aging	0	0	0	0	0	\$2.814^l	\$4.520^l	0^l

Source: Appropriations legislation, various years.

- a. FY2005 amounts reflect the 0.80% across-the-board reduction required by P.L. 108-447, Division J, Section 122. The Administration was given discretion on how to distribute the reduction among individual accounts and line items.
- b. FY2006 amounts reflect two rescissions: (1) There was an 1% across-the-board reduction required by P.L. 109-148, Division B, Title III, Chapter 8, Section 3801. (2) On June 14, 2006, the HHS Secretary notified the Appropriations Committees that he would transfer funds among HHS programs to finance activities related to the Medicare drug benefit call center. This transfer was a 0.069% across-the-board reduction and it reduced Administration on Aging funds by \$0.9 million. It was authorized by Section 208 of P.L. 109-149.
- c. Includes \$1.2 million for the Eldercare Locator and \$1.2 million for Pension Counseling and Information Program.
- d. Includes funds for activities previously funded under Title IV: Senior Medicare Patrols; National Long-Term Care Ombudsman Resource Center; and National Center on Elder Abuse. Also includes funds for the Eldercare Locator and Pension Counseling and Information Program.
- e. Funding for Native American family caregiving is shown in Title VI.
- f. Congress originally appropriated \$150 million, then rescinded \$332,000 (0.22%) pursuant to Section 1(a)(4) of P.L. 106-554.
- g. Congress transferred the program, previously funded by USDA, to AoA in FY2003.
- h. Not authorized. P.L. 106-501 eliminated separate authority for in-home services for the frail elderly, but such activities may still be funded under the Title III supportive services and centers program.
- i. See footnote d. Funds shown are reduced from FY2003 level due to transfer of some funds to Title II.
- j. Separate amounts not specified.
- k. The FY1999 Omnibus Consolidated Appropriations Act (P.L. 105-277/H.R. 4328) transferred the administration of the program from the Health Resources and Services Administration to AoA. The program is authorized under Section 398 of the Public Health Service Act.
- l. P.L. 100-75 required the President to convene the conference no later than Dec. 31, 2005. It was held December 11-14, 2005. See <http://www.whcoa.gov>. FY2006 obligations for the White House Conference on Aging were funded by carryover balances of prior year appropriations.

Appendix. The Older Americans Act: Historical Development

Congress created the Older Americans Act in 1965 in response to concern by policymakers about a lack of community social services for older persons. The original legislation established authority for grants to states for community planning and social services, research and development projects, and personnel training in the field of aging. The law also established the Administration on Aging (AoA) within the then-Department of Health, Education, and Welfare (DHEW) to administer the newly created grant programs and to serve as the federal focal point on matters concerning older persons.

Although older persons may receive services under many other federal programs, today the act is considered to be the major vehicle for the organization and delivery of social and nutrition services to this group. It authorizes a wide array of service programs through a nationwide network of 57 state agencies on aging and 655 area agencies on aging, supports the sole federal job creation program benefitting low-income older workers, and funds training, research, and demonstration activities in the field of aging.

Prior to the creation of the act in 1965, older persons were eligible for limited social services through some federal programs. However, with the recognition that older persons were becoming an increasing proportion of the population and that their needs were not being formally addressed through existing programs, many groups began advocating on their behalf. Their actions led President Truman to initiate the first National Conference on Aging in 1950. Conferees called for government and voluntary agencies to accept greater responsibility for the problems and welfare of older persons. Further interest in the field of aging led President Eisenhower to create the Federal Council on Aging in 1956 to coordinate the activities of the various units of the federal government related to aging.

The beginning of a major thrust toward legislation along the lines of the later-enacted Older Americans Act was made at the 1961 White House Conference on Aging. The conferees called for a federal coordinating agency in the field of aging to be set up on a statutory basis, with adequate funding for coordinating federal efforts in aging, as well as a federal program of grants for community services specifically for the elderly.⁵⁴

In response to the White House Conference on Aging recommendations, Representative John Fogarty of Rhode Island and Senator Pat McNamara of Michigan introduced legislation in 1962 to establish an independent U.S. Committee on Aging to cut across the responsibilities of many departments and agencies, and create a program of grants for social services, research, and training that would benefit older persons. Because there were objections by the Administration to the creation of an independent federal agency on aging, the legislation was not enacted. Legislation introduced the following year by Representative Fogarty and Senator McNamara modified the 1962 proposal by creating within DHEW, the Administration on Aging (AoA) which was to be under the direction of a Commissioner for Aging, appointed by the President with the approval of the Senate. However, the 1963 proposal was not enacted.

The Older Americans Act as introduced in 1965 basically paralleled the 1963 proposal. Sponsors emphasized how it would provide resources necessary for public and private social service providers to meet the social service needs of the elderly. The act received wide bipartisan support

⁵⁴ U.S. Department of Health Education and Welfare, Special Staff on Aging, *The Nation and Its Older People, Report of the White House Conference on Aging, Jan. 9-12, 1961*, Washington, April 1961.

and was signed into law by President Johnson on July 14, 1965. In addition to creating AoA, the act authorized grants to states for community planning and services programs, as well as for research, demonstration, and training projects in the field of aging. In his remarks upon signing the bill, the President indicated that the legislation would provide “an orderly, intelligent, and constructive program to help us meet the new dimensions of responsibilities which lie ahead in the remaining years of this century. Under this program every state and every community can now move toward a coordinated program of services and opportunities for our older citizens.”⁵⁵

Major Amendments to the Older Americans Act

The Older Americans Act has been amended 15 times since the original legislation was enacted. The first amendments to the act in 1967 extended authorization for the state grant program and for research, demonstration, and training programs created in 1965. In 1969, Congress added authority for a program of area-wide model projects to test new and varied approaches to meet the social service needs of the elderly. The 1969 amendments also authorized the foster grandparent and retired senior volunteer programs to provide part-time volunteer opportunities for the elderly. (Authority for volunteer programs was subsequently repealed and these programs were reauthorized under the Domestic Volunteer Service Act of 1973.)

Major amendments to the act occurred in 1972 with the creation of the national nutrition program for the elderly, and in 1973, with the establishment of substate area agencies on aging. The 1973 amendments represented a major change because for the first time federal law authorized the creation of local agencies whose purpose is to plan and coordinate services for older persons and to act as advocates for programs on their behalf. These amendments also created legislative authority for the community service employment program for older Americans which had previously operated as a demonstration initiative under the Economic Opportunity Act. In 1975, Congress extended the Older Americans Act through 1978 and specified certain services to receive funding priority under the state and area agency on aging program.

The 1978 amendments represented a major structural change to the act when the separate grant programs for social services, nutrition services, and multipurpose senior center facilities were consolidated into one program under the authority of state and area agencies on aging. The intent of these amendments was to improve coordination among the various service programs under the act. Among other changes were requirements for establishing state long-term care ombudsman programs and a new Title VI authorizing grants to Indian tribal organizations for social and nutrition services to older Indians.

The 1981 amendments made modifications to give state and area agencies on aging more flexibility in the administration of their service programs. These amendments also emphasized the transition of participants to private sector employment under the community service employment program. In 1984, Congress enacted a number of provisions, including adding responsibilities for AoA; adding provisions designed to target services on low-income minority older persons; giving more flexibility to states regarding service funds allocations; and giving priority to the needs of Alzheimer’s victims and their families.

The 1987 amendments expanded certain service components of the state and area agency program to address the special needs of certain populations. Congress authorized six additional distinct authorizations of appropriations for services: in-home services for the frail elderly; long-term care ombudsman services; assistance for special needs; health education and promotion services; services to prevent abuse, neglect and exploitation of older individuals; and outreach

⁵⁵ Public Papers of the Presidents of the United States, *Lyndon B. Johnson*, vol. 2, Washington, 1965, p. 744.

activities for persons who may be eligible for benefits under the supplemental security income (SSI), Medicaid and food stamp programs. Among other changes were provisions designed to give special attention to the needs of older Native Americans and persons with disabilities, emphasize targeting of services to those most in need, elevate the status of AoA within the Department of Health and Human Services (HHS), and liberalize eligibility of community service employment participants for other federal programs.

The 1992 amendments restructured some of the act's programs. A new Title VII, Vulnerable Elder Rights Protection Activities, was created to consolidate and expand certain programs that focus on protection of the rights of older persons. Title VII incorporated separate authorizations of appropriations for the long-term care ombudsman program; program for the prevention of elder abuse, neglect, and exploitation; elder rights and legal assistance development program; and outreach, counseling, and assistance for insurance and public benefit programs. In addition, provisions were included to strengthen requirements related to targeting of Title III services on special population groups. Other amendments authorized programs for assistance to caregivers of the frail elderly; clarified the role of Title III agencies in working with the for-profit sector; and required improvements in AoA data collection.

The 2000 amendments were enacted after six years of congressional debate on reauthorization. P.L. 106-501 extended the act's programs through FY2005. These amendments authorized the National Family Caregiver Support Program under Title III; required the Secretary of the Department of Labor (DOL) to establish performance measures for the senior community service employment program; allowed states to impose cost-sharing for certain Title III services older persons receive while retaining authority for voluntary contributions by older persons toward the costs of services; and consolidated a number of previously separately authorized programs. In addition, the amendments required the President to convene a White House Conference on Aging by December 31, 2005.

The 2006 amendments extended the act's programs through FY2011. Among other things, the law authorized the Assistant Secretary on Aging to designate an individual within AoA to be responsible for prevention of elder abuse, neglect and exploitation and to coordinate federal elder justice activities. It also authorized the Assistant Secretary to award competitive grants to states to support the development of coordinated state systems designed to detect and prevent abuse, neglect and exploitation.

P.L. 109-365 required AoA and state and area agencies on aging to focus attention on planning comprehensive and coordinated systems of home and community-based services to assist older persons with long-term care needs to remain in their own homes, rather than entering institutions. It also authorized AoA to award funds for Aging and Disability Resource Centers (ADRCs) to serve as a visible source of information on the full range of long-term care options to assist frail older people.

Among other things, P.L. 109-365 revised the formula for the allocation of Title III funds by updating the "hold harmless" provision to the FY2006 funding level and phasing out over four years the guaranteed growth provision that had been added by the 2000 reauthorization legislation. The law also required states to conduct increased planning efforts related to the growing number of older people in coming decades; and focused attention on the needs of older people with limited English proficiency and those at risk of institutional placement.

The law added authority for the Assistant Secretary on Aging to conduct several new demonstration programs under Title IV. Among these are demonstration projects for model projects to assist older people to age in place, including in Naturally Occurring Retirement Communities (NORCs); and for mental health services for older people.

It also revised the Title V community service employment program to place more emphasis on training of older individuals, but also maintains the emphasis on employing them work in community service activities. The law required the Secretary of Labor to conduct a national competition for Title V funds every four years.

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